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|--|---------------|----------------------|---------------------|------------------|
| APPLICATION NO.  | FILING DATE   | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/572,607   | 03/20/2006    | Manfred Geier        | 014881-000723       | 7122             |
| 24239  | 7590          | 01/14/2010           | EXAMINER            |                  |
| MOORE & VAN ALLEN PLLC<br>P.O. BOX 13706<br>Research Triangle Park, NC 27709 |               |                      | WILSON, LEE D       |                  |
| ART UNIT   | PAPER NUMBER  |                      |                     |                  |
|  | 3727          |                      |                     |                  |
| MAIL DATE  | DELIVERY MODE |                      |                     |                  |
| 01/14/2010   | PAPER         |                      |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                  |                     |
|------------------------------|----------------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b>           | <b>Applicant(s)</b> |
|                              | 10/572,607                       | GEIER ET AL.        |
|                              | <b>Examiner</b><br>LEE D. WILSON | Art Unit<br>3727    |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on \_\_\_\_\_.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-25 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 1-25 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blank et al (6578837) in view of Liou (6474632).

a. Blank et al discloses a clamping and spreading tool having stationary jaw (2), movable jaw (1), pull rod (3), gearing spring (22), centering spring (4), slide mechanism (31), and a lock (15). In regard to the force dissipating mechanism this is merely the structure of the invention because the locks, gears, cants, will all perform these recited functions.

b. Blank et al discloses the claimed invention except for gear mechanism.

c. All the claimed elements were known in the prior art such as Liou a clamping and spreading tool having stationary jaw (6), a movable jaw (61), a gear mechanism (12), and a pull rod (2) and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions and the combinations would have yielded predictable results to one of ordinary skill in the art at the time of invention.

3. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liou (6655670) in view of Liou (6474632).

d. Liou discloses a clamping and spreading tool having stationary jaw (fig.4), movable jaw (12), pull rod (13), gearing spring (11), centering spring (10), slide mechanism (6), and a lock (1). In regard to the force dissipating mechanism this is merely the structure of the invention because the locks, gears, cants, will all perform these recited functions.

e. Liou discloses the claimed invention except for gear mechanism.

f. All the claimed elements were known in the prior art such as Liou a clamping and spreading tool having stationary jaw (6), a movable jaw (61), a gear mechanism (12), and a pull rod (2) and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions and the combinations would have yielded predictable results to one of ordinary skill in the art at the time of invention.

4. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted Prior Art (2003/013793 WO American Tool Company, Inc) in view of Liou (6474632).

g. Admitted Prior Art (2003/013793 WO American Tool Company, Inc) discloses a clamping and spreading tool having stationary jaw (116), movable jaw (102), pull rod (104), gearing spring (11), centering spring (150), slide mechanism (146), and a lock (180). In regard to the force dissipating mechanism

this is merely the structure of the invention because the locks, gears, cants, will all perform these recited functions.

h. Admitted Prior Art (2003/013793 WO American Tool Company, Inc) discloses the claimed invention except for gear mechanism.

i. All the claimed elements were known in the prior art such as Liou a clamping and spreading tool having stationary jaw (6), a movable jaw (61), a gear mechanism (12), and a pull rod (2) and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions and the combinations would have yielded predictable results to one of ordinary skill in the art at the time of invention.

***Response to Arguments***

**5. Applicant's arguments filed 6/9/09 have been fully considered but they are not persuasive.**

j. The applicant states the prior art does not disclose a force dissipating mechanism. There is no real structure to define what it is supposed to be. All of the mechanisms described in the prior art will dissipate some force. There is functional language and statements as to what it does but what is the really structure. Which piece in the drawing is the mechanism and the claim does not point this out. Therefore, the rejections stand.

**6. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE D. WILSON whose telephone number is 571-272-4499. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MONICA CARTER can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ldw

/LEE D WILSON/  
Primary Examiner, Art Unit 3727

January 7, 2010